

NOTICE OF EXEMPTION

To: Office of Planning and Research
State Clearinghouse
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Sacramento, CA 95812-3044

From: Department of Toxic Substances Control
Hazardous Waste Management Program
1001 "I" Street
Sacramento, CA 95814

Project Title: Re-adoption of Consolidated Emergency Regulations for Hazardous Waste Electronic Devices.

Project Location: Statewide.

County: This rulemaking affects all counties in California.

Project Description: The project is a rulemaking that re-adopts three emergency regulation packages related to waste, hazardous electronic devices. The three previous emergency regulation packages were OAL reference number 04-0526-01E, OAL reference number 04-1216-03E, and OAL reference number 05-0401-21E. This project combines the regulatory text from these packages into one regulation package (the regulations). This rulemaking ensures that the environmental safeguards contained in the prior emergency regulations will remain in effect until final, permanent regulations are adopted by DTSC. Hence, this project maintains the status quo.

The regulations re-adopted amend title 22 of the California Code of Regulations to do the following:

- Define various terms related to electronic hazardous wastes,
- Impose a presumption (on generators) that specific types of electronic devices are hazardous waste when discarded and clarify which types of electronic devices are "covered electronic devices,"
- Implement notification requirements placed on manufacturers of covered electronic devices pursuant to section 25214.10.1 of the Health and Safety Code and require supplemental notifications (to retailers) from manufacturers for covered electronic devices that were not included in a previous notice,
- Require persons who handle universal waste electronic devices to submit notices and annual reports to DTSC,
- Provide an alternative form of authorization (in lieu of hazardous waste facility permits) for persons who recycle (i.e., conduct hazardous waste treatment on) universal waste electronic devices using one or more of the following methods: manual disassembly, shredding, shearing, grinding, or other forms of physical treatment (size reduction and segregation of residual materials),
- Impose regulatory performance standards and notification and reporting requirements on persons who recycle universal waste electronic devices under this "new" form of authorization,
- Impose notification and annual reporting requirements on persons who handle CRT materials generated at other locations, and
- Clarify the regulatory standards that apply to persons who recycle cathode ray tubes by conducting yoke removal.

Name of Public Agency Approving Project: Department of Toxic Substances Control

Name of Person or Agency Carrying Out Project: Department of Toxic Substances Control.

Exemption Status: Title 14, California Code of Regulations, section 15061, subsection (b)(3)
With Certainty, No Possibility of a Significant Effect to the Environment.

Reasons Why Project is Exempt: DTSC has determined that:

- The authorized treatment of universal waste electronic devices is a low-hazard activity.
- The authorized treatment of universal waste electronic devices addressed by these regulations does not pose a significant threat to human health and safety.
- The authorized treatment of universal waste electronic devices does not warrant the same level of regulatory standards as does the treatment of other "traditional hazardous wastes."
- Universal waste electronic devices are largely solid materials that typically do not contain liquids.
- The authorized treatment activities allowed by these regulations (dismantling, size reduction, and materials segregation) generally don't pose significant environmental concerns, and lastly, as explained below,
- The regulatory standards imposed by this project will not allow environmental degradation.
- With certainty, there is no reasonable possibility the regulations will have significant environmental impacts.

AIR QUALITY

The universal waste electronic devices that may be treated are largely solid materials that typically do not contain liquids. Therefore, simple disassembly of these devices, e.g., removing a hard-disk drive from a computer, will not release liquid or gaseous chemicals into the air. In addition, the processing beyond simple disassembly that is authorized by the regulations is limited by the regulations such that all mercury-containing lamps and other components containing fluids (i.e., liquids or gases) that would be identified as hazardous wastes are removed prior to processing. With respect to the solid materials, DTSC has determined that the primary hazard to the environment would be in the form of the release of metals. However, several factors eliminate any significant possibility of this environmental concern. First, the recovery of metals contained in the universal waste electronic devices is the ultimate objective of the recyclers authorized by the regulations (processing solely for the purpose of hazardous waste treatment is prohibited). Thus, the recyclers must capture and contain the metals or they will not benefit from their efforts. Therefore, the recyclers will, of course, have systems in place to capture these materials. Second, the regulations require the recyclers to comply with all local air pollution control requirements including those for particulates and toxic air contaminants. Third, the regulations require the treatment to be performed over or in a containment device and the containment of any treatment residuals produced. Lastly, by excluding processes that use external heat and chemicals, including water, the regulations eliminate any treatment involving chemically energetic processes that might result in a release to the air.

WATER QUALITY AND SOILS (LAND)

While universal waste electronic devices do pose a threat to groundwater when improperly disposed in a municipal solid waste landfill, there is no potential of such impacts when recyclers conduct the authorized treatment activities allowed by these regulations (dismantling, size reduction, and materials segregation). The regulations contain multiple provisions that safeguard against improper disposal of the devices and/or treatment residuals thereof, and any subsequent impacts upon water quality. The regulations require the treatment to be performed over or in a containment device. This ensures against any material from being released to the land and eventually leaching contaminants into the groundwater. The regulations also require the containment of any treatment residuals produced. This also ensures against any material from being released to the land and the eventual leaching of contaminants into the groundwater. Furthermore, all treatment residuals must be properly classified and managed in accordance with applicable hazardous waste requirements. The regulations also exclude processes that use chemicals, including water. This ensures against highly-mobile liquids (and gases) from being produced by recyclers operating under these the regulations.

HAZARDOUS WASTES/HAZARDOUS MATERIALS

Worker Safety

The regulations address worker exposure to hazardous materials and hazardous wastes. The regulations require recyclers who perform authorized treatment to ensure that workers (handlers) who process the electronic devices are thoroughly familiar with the hazards associated with such processing, and that they have access to the proper procedures and protective equipment necessary to conduct the processing safely. In addition, the regulations require handlers who process electronic devices to comply with all applicable worker health and safety laws and regulations, including: California Code of Regulations, title 8, subchapter 7 (General Industry Safety Orders), group 16 (Control of Hazardous Substances), article 107 (Dusts, Fumes Vapors and Mists) and article 109 (Hazardous Substances and Processes), and section 5198 (Lead). Additionally, all workers are subject to compliance with the general Cal-OSHA worker safety requirements. The regulations also require that workers are trained and that universal wastes are clearly labeled as such. Consequently, workers are aware of what hazards they may encounter.

General Environment

The regulations contain standards that eliminate any impact to the general environment. These standards include: limiting the treatment activities that may be performed by the recyclers; requiring authorized treatment to be conducted over or in a containment device (e.g., a tray, box, workbench, etc.); and requiring all treatment residuals to be properly contained, classified, and managed.

LAND USE AND PLANNING, NOISE, TRANSPORTATION AND TRAFFIC

The regulations ensure that the recyclers follow all applicable zoning and land use requirements. This will ensure that the universal waste electronic device recycling facilities will be located consistent with local zoning requirements. Hence, these facilities will be located only in areas that are already are industrial-type areas; and will not be located near residences or sensitive habitat areas. Because these facilities will not be located near residential areas, residents will not experience noise or traffic impacts. Construction of new facilities is not required by these regulations. Any new recycling facilities that are established and plan to treat universal waste electronic devices would also be subject to local zoning, land use, and planning requirements described above.

CUMULATIVE IMPACTS

DTSC has completed only one similar project. That project was the regulations establishing the authorized treatment standards for cathode ray tube (CRT) materials. In almost every instance the handlers that recycle the CRT materials also recycle the universal waste electronic devices. Since DTSC has determined each set of regulations will not have a significant effect on the environment, there can be no cumulative impact. DTSC has observed that the universal waste regulations for these materials have collectively resulted in an increased awareness that these devices are hazardous wastes. This has lead to a general, statewide trend towards increased compliance with the universal waste regulations. In part, as a result of regulations adopted in 2004 by DTSC (CRT materials), over 55,087,284 pounds of universal waste electronic devices were recycled under the Electronic Waste Recycling Act of 2003 program in 2005. As a result of these regulations, more universal waste electronic devices will be recycled. DTSC has approved approximately 40 recyclers under emergency regulations that are similar to the project. As the trend under the emergency regulations has been towards increased overall compliance without any significant adverse impact on the environment, DTSC is certain that the combined effects of this project and the CRT materials regulations will not cumulatively result in a significant impact on the environment.

CONCLUSION

Given the controls established in the regulations, DTSC has determined that implementation of the regulations have no possibility of creating a significant effect on the environment.

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